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FIREMAN'S FUND INSURANCE COMPANY,
a foreign corporation a/s/o BASIC RESOURCES, INC.
and GEORGE REED, INC., a foreign corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

FIREMAN'S FUND INSURANCE
COMPANY, a foreign corporation
a/s/o BASIC RESOURCES, INC.
and GEORGE REED, INC., a foreign
corporation,

Plaintiff,

vs.

GERLING AMERICA INSURANCE
COMPANY, a foreign corporation,

Defendant.

CASE NO. C 07 06302 CRB

**FFIC'S COMPENDIUM OF CASES AND
RULES CITED IN PLAINTIFF'S
RESPONSE WITH CROSS-MOTION FOR
PARTIAL JUDGMENT ON THE
PLEADINGS IN OPPOSITION TO
DEFENDANT'S MOTION FOR
JUDGMENT ON THE PLEADINGS (D.E.
33) [F.R.C.P. 12(c)]**

Date: May 30, 2008

Time: 10:00 a.m.

Courtroom: 8

CASES AND RULES

	CASES	Exhibit
1.	<u>In re Jet Florida Systems, Inc. v. Jet Florida Systems, Inc.</u> 883 F.2d 970 (11 th Cir. 1989)	A
2.	<u>Wimmer v. Mann</u> , 58 Bankrupt 953 (Bankr. W.D. Va., 1986)	B
3.	<u>Bowers v. American Surety Co.</u> , 30 F.2d 244, 7 A.F.T.R. (P-H) 8430 (2d, Cir.), cert. Denied, 279 U.S. 865 [49 S.Ct. 480, 73 L.Ed. 1003] (1929)	C
4.	<u>Underhill v. Royal</u> , 769 F.2d 1426 (9 th Cir. 1985)	D
5.	<u>Pettibone Corp. v. Hawxhurst</u> , 163 B.R. 989 1994 U.S. Dist. LEXIS 858 (N.D. Ill. 1994)	E
6.	<u>Allstate Ins. Co. v. Stanley</u> , 282 F. Supp. 1342 (M.D. Fla. 2007)	F
7.	<u>Van Bibber v. Hartford Acc. and Indemn. Ins. Co.</u> 439 So.2d 880 (Fla. 1983)	G
8.	<u>Camp v. St. Paul Fire & Marine Ins. Co.</u> 616 So.2d 12 (Fla. 1993)	H
9.	<u>Caprece v. Depository Trust and Clearing Corp.</u> 2005 U.S. LEXIS 42039 (S.D. Fla. 2005)	I
10.	<u>Omega Patents, LLC v. Lear Corp.</u> , 2008 U.S. Dist. LEXIS 21990 (M.D. Fla. 2008)	J
11.	<u>Horsley v. Rivera</u> , 292 F.3d 695, 701 (11 th Cir. 2002)	K
12.	<u>Thunderwave, Inc. v. Carnival Corp.</u> 954 F. Supp. 1562, 1564 (S.D.Fla. 1997)	
13.	<u>Castro v. Sec'y of Homeland Sec.</u> 472 F.3d 1334, 1336 (11 th Cir.2006)	L
14.	<u>Bell Atl. Corp v. Twombly, U.S.</u> 127 S.Ct. 1955, 1964-65, 167 L.Ed.2d 929 (2007)	M

15. Bryan Ashley Int'l, Inc. v. Shelby Williams Indus, Inc. N
932 F.Supp. 290, 291 (S.D. Fla. 1996)
(citing 5A Charles A. Wright & Arthur R. Miller
Federal Practice and Procedure § 1368 at 222 (2004))
16. Horsley v. Feldt, 304 F.3d 1125, 1134 (11th Cir. 2002) O
17. Adamson v. Poorter, 2007 U.S. App. LEXIS 23577 P
2007 WL 2900576 *2 (11th Cir. 2007)
18. Citibank, N.A. v. White Motor Corp. Q
(In re: White Motor Credit), 761 F.2d 270 (6th Cir. 1985)
19. In re: Honosky 6 Bankr. R
667, 670 [Bkrtcy] (S.D.W. Va. 1980)

RULES

- Judicial Notice: Rule 105 – Limited Admissibility S
- U.S.C.S. Fed.R.Civ.P. Rule 12 T
- U.S.C.S. Fed.R.Civ.P. Rule 201 U
- 11 U.S.C.S. § 524 V

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PROOF OF SERVICE

Fireman's Fund Ins. Co. v. Gerling American Ins.

United States District Court, Northern District of California

Case No.: C 07 06302 CRB

I am employed in the City and County of West Palm Beach, State of Florida. I am over the age of 18 and not a party to the within action; my business address is: Derrevere, Hawkes & Black, 470 Columbia Drive, Building "B", West Palm Beach, Florida 33409.

On May 1st, 2008, I served the foregoing document(s) described as:

FFIC'S COMPENDIUM OF CASES AND RULES CITED IN PLAINTIFF'S RESPONSE WITH CROSS-MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS IN OPPOSITION TO DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS (D.E. 33) [F.R.C.P. 12(c)]

On the interested parties in this action by placing ☐ the original ☐ a true copy thereof enclosed in a sealed enveloped addressed as stated below:

☐ BY REGULAR MAIL:

I caused such envelopes to be deposited in the United States Mail at West Palm Beach, Florida with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service each day and that practice was followed in the ordinary course of business for the service herein attested to.

☒ BY ECF:

I HEREBY CERTIFY that on this 1st day of May, 2008, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on: TINO X. DO, Barger & Wolen, LLP, 650 California Street, 9th Floor, San Francisco, CA 94108, tdo@barwol.com and CHARLES K. BRUNN, Brunn & Flynn, 928 12th Street, Suite 200, P.O. Box 3366, Modesto, CA 95354, CBrunn@Brunn-Flynn.com via transmission of Notices of Electronic Filing generated by CM/ECF.

☒ FEDERAL - I declare that I am employed in the office of a member of the Florida Bar, admitted to practice in all Florida Courts and who makes this Pro Hac Vice Application, that our co-counsel and sponsor is a member of the bar of this California Court, and at their direction this service was made. Executed at West Palm Beach, Florida on May 1st, 2008.

NAME: Deanna N. Menendez

Signature: Deanna N. Menendez